

**REPUBLIC OF NAURU**  
**NAOERO ROADS BILL 2017**  
**EXPLANATORY MEMORANDUM**

The Naoero Roads Bill is a Bill for the *Naoero Roads Act 2017*.

This memorandum provides an explanation of the Bill and is only intended to indicate the general effect.

**EXPLANATION OF CLAUSES**

**PART 1 – PRELIMINARY**

**Clause 1** is a standard section which provides that once enacted, the short title of the Act will be the *Naoero Roads Act 2017*.

**Clause 2** sets out when the Bill's provisions will commence which is upon certification by the Speaker.

**Clause 3** provides the definitions of certain terms frequently used in the Act.

**Clause 4** applies to all public roads:

- open for use to the public on or before 10 June 1921;
- proclaimed after 1921;
- acquired under the Roads and Maintenance Ordinance 1922 -

The Act also applies to any public road which may be proclaimed or declared by the Minister in consultation with the Cabinet and, any road maintained by the Department at the time of coming into force of the Act.

This clause does not necessarily require the acquisition of roads by the Government but it may be maintained for the purposes for the use of the public.

**PART 2 – DECLARATION AND VESTING OF PUBLIC ROADS**

**Clause 5** allows the Minister in consultation with the Cabinet to declare any:

- road, street, thoroughfare or track as a public road;
- existing public road to be closed, diverted or modified;
- new public road be opened; or
- existing public road be modified.

Any declaration made by the Minister shall be published in the Gazette.

**Clause 6** provides that all public roads vest in the Republic.

This clause also outlines the responsibilities of the Department under the Act which relate to the:

- administration and management of public roads;
- construction, maintenance and upgrading of all public roads;
- approval of the design and construction of any roadside billboards;
- placement of road and traffic signs;
- marking of public roads; and
- enforcement of this Act.

**Clause 7** allows the Minister with the approval of the Cabinet to acquire public or private land for the construction of existing or opening of new public roads.

The authority to acquire land under this clause is to be exercised for public purposes only.

### **PART 3 – EXECUTION OF WORKS ON OR FOR PUBLIC ROADS**

**Clause 8** allows the Secretary and authorised officers to enter specified land at any reasonable time to perform any acts necessary for surveying, measuring, marking, working, opening, modifying, maintenance, cleaning, improving, fencing, placing or fixing of road signs, traffic lights, constructing or excavating any such public road or any act necessary for the purposes of the Act.

**Clause 9** allows the Secretary to make temporary roads accessible to the public through adjacent lands or near to any public roads during the execution of any work on public roads. This is provided that the temporary roads shall not cut across any land where there are buildings, enclosed gardens or yards are located. Work sites on any road may present a hazard for workers, motorists and pedestrians alike thus the need for temporary roads to be made available.

**Clause 10** allows the Secretary to serve a notice in writing to a proprietor or occupier of land where any trees or the branches of any bush, shrub or other vegetation obstructs any public road, traffic safety or endangers any life.

The Secretary or an authorised officer may cut and remove the trees or branches if the proprietor or occupier of the land fails or neglects to comply with the notice. Any expenses incurred for the removal of trees or branches may be recovered from the proprietor or occupier.

**Clause 11** makes it the responsibility of the Secretary to construct and maintain fences, guard rails, hedges, ditches, drains or banks on the side of any public road.

This is necessary for the safety of all road users by keeping people or vehicles from venturing into dangerous areas.

**Clause 12** allows the Secretary to place any stone, gravel, crushed metal, wood or other material or thing on any public road for the purposes of repair and maintenance of the road and may allow the same to remain there during such period as may be necessary.

**Clause 13** allows the temporary suspension of the use of public roads by the Secretary -

- where the road is not safe for the use of the public or safety of vehicles;
- where the use of road by a certain class of vehicle may cause damage to the road;
- for the purposes of repair and maintenance;
- for any other purpose which the Secretary may deem fit and necessary.

This clause also allows for the temporary suspension of use of road for matters such as processions, dignitaries travelling and so forth.

**Clause 14** permits the Secretary to make, clean and keep open all ditches, gutters, drains or watercourse and lay such trunk, tunnel or bridges for the preservation, improvement, repair and construction of any road in and through any land or grounds adjoining or near to any public road.

**Clause 15** requires the Secretary to maintain a constant flow of traffic and all necessary precautions for road users during the period of construction, maintenance or repair of a public road. This aims to promote work zone safety and orderly traffic flow.

#### **PART 4 – NUISANCE ON PUBLIC ROADS**

**Clause 16** makes it an offence to:

- discharge waste water or other liquids;
- permit or let any domestic or farm animals to stray or chase after moving vehicles;
- place or throw any stones, bricks, timber, glass, cans, sand, bottles or rubbish;
- drive a vehicle with timber, iron, steel or other goods whereby either end of such material projects horizontally beyond the wheels or sides of the vehicle;
- in any manner wilfully obstructing any person or vehicle from passing along any public road;
- slaughter any animal on the road;
- abandon or permit to be left any motorcycle or vehicle, other than a motorcycle or vehicle had involved broken down or in case of any an accident or has become immobile due to unforeseen mechanical failure, for such period as may be necessary for its removal;
- ride any motor cycle or bicycle contrary to the provisions of the Motor Traffic Act 2014;
- drive vehicle with loud music between 11pm and 6am.

Penalty – not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 17** makes it an offence to consume alcohol or any drugs on a public road or while traveling as a driver or passenger in a vehicle.

Penalty - a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 18** makes it an offence for a person to:

- destroy, deface, break or damage any traffic sign, bridge, arch, wall, girdle, drain, embankment, kerb, gutter, railing, chain or fence;
- remove any signs placed by the Department for the temporary prevention of the use of the road or warning road users of any hazard;
- pile up or take away stones, gravel, sand or other material;
- make or cause to be made any dam, ditch, drain or watercourse upon or across or damages the surface;
- construct any house or other building so as to project over or encroach; or
- remove, damage, modify or drive over the kerb, gutter or any sidewalk.

Penalty - a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

The court may order the person convicted of an offence under this section to pay all expenses incurred by the Department for the removal or construction resulting from the offence committed.

**Clause 19** ensures that a proprietor or occupier of any land adjoining or bordering a public road:

- keeps the frontage clear from any trees or construction;
- keeps the frontage clean;
- cut down overhanging trees or shrubs growing onto the public road.

Penalty - a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 20** prevents a person from driving or causing to drive upon any public road a heavy vehicle or machinery.

This clause requires any person who desires to drive or cause to be driven on any public road a heavy vehicle or machinery to obtain a permit from the Secretary.

The application in writing shall provide:

- the description of the heavy vehicle or machinery or any articles carted on such vehicle or machinery;
- the dimensions of the heavy vehicle or machinery including any cartage if it extends beyond the sides and rear of the vehicle or machinery;

- the approximate gross weight of the heavy vehicle or machinery including any cartage;
- the means which it is proposed to use for such transportation;
- the departing and delivering destinations; and
- the time the heavy vehicle or machinery is proposed to be driven on the public road.

The prescribed fee must be paid.

This clause will require the applicant to pay the cost of any damage caused by the transportation of heavy vehicles or machinery granted under the permit.

#### **PART 5 - DRIVEWAYS AND LOADING ZONE**

**Clause 21** ensures that the construction of driveways adjoining a public road is carried out with the prior approval of the Secretary.

The applicant shall provide the following details:

- a plan;
- place; and
- an undertaking to construct the driveway without any obstruction or damage to the road.

The Secretary may grant an approval with such conditions as may be necessary including a refundable bond if the applicant restores the road as required by the Secretary.

Penalty - a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

**Clause 22** ensures that loading and unloading zones on a public road are constructed with the prior approval of the Secretary.

An applicant shall provide the following details:

- a plan;
- place;
- an undertaking to construct the loading and unloading zone without any obstruction or damage to the road.

The Secretary may grant an approval with such conditions as may be necessary including a refundable bond if the applicant restores the road as required by the Secretary.

Penalty - a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

**Clause 23** ensures that parking spaces or parking of vehicle on or adjoining the public road are done with the prior approval of the Secretary.

An applicant under this clause must provide the following:

- a plan;
- place;
- an undertaking to construct the loading and unloading zone without any obstruction or damage to the road.

The Secretary may grant an approval with such conditions as may be necessary including a refundable bond if the applicant restores the road as required by the Secretary.

Penalty - a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

### **PART 6 – Tracks, common driveways or access ways**

**Clause 24** ensures that proprietors and occupiers of adjoining and surrounding lands do not unreasonably obstruct or block any tracks, common driveways or access ways without providing an alternative route.

**Clause 25** provides that any dispute pertaining to any tracks, common driveways or access ways shall be determined by the Supreme Court.

**Clause 26** allows the Minister to proclaim and declare any such tracks, common driveways or access way for public usage.

Any proclamation made by the Minister shall be published in the Gazette.

### **PART 7 – AUTHORISED OFFICERS**

**Clause 27** provides for the authorisation of persons as authorised officers by the Minister for the purposes of the Act.

**Clause 28** requires authorised officers to be issued with identification cards with the exception of police officers.

Identification cards shall be produced by the authorised officers at the request of a person in relation to whom the authorised officers intend to their powers.

Identification cards shall contain the following information:

- name and a recent photograph of the authorised officers;
- state that the persons are authorised officers for the purposes of this Act;
- the period of validity of the identification card; and
- any conditions in the instrument of appointment that limits his or her powers as an authorised officer.

## **PART 8 – MISCELLANEOUS**

**Clause 29** vests jurisdiction in the District Court to hear and determine offences under the Act and to impose the penalties in respect of the said offences. This is necessary given that the proposed penalties under the Act are beyond the jurisdiction of the District Court.

Under section 18 of the Courts Act 1972, the District Court may be vested jurisdiction by any other written law and this clause accordingly vests that jurisdiction in the District Court.

**Clause 30** provides for exercise of all powers of authorised officers by all Police officers as may be necessary for the enforcement of the Act.

**Clause 31** is the regulations making provisions empowering the Cabinet to make regulations prescribing all matters necessary or convenient to be prescribed for giving effect to the Act.

The regulations may provide for:

- any forms that are required under this Act;
- the drawing of plans and gazetting of all public roads;
- the fees for any applications or services that are required to be paid under this Act;
- class or classes of vehicles;
- provide for the use of the road by heavy vehicles and machinery; and
- any other ancillary matters.

**Clause 32** is the savings provision which provides that all roads that were proclaimed or declared before or after 10<sup>th</sup> June 1921 and under the Roads Maintenance Ordinance 1922 are deemed to be public roads for the purposes of this Act